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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,151	12/27/2000	John D. Marshall	EKO000200	8710
34690	7590	05/03/2005	EXAMINER	
<b>RIMAS T. LUKAS</b> PO BOX 3295 HALFMOON BAY, CA 94014				FLANDERS, ANDREW C
ART UNIT		PAPER NUMBER		
2644				

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/751,151	MARSHALL ET AL.	
	Examiner Andrew C Flanders	Art Unit 2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 15 April 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-105 is/are pending in the application.  
 4a) Of the above claim(s) 4-35,39-70 and 74-105 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,36-38 and 71-73 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 December 2000 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION*****Response to Amendment***

1. Applicant has elected Group I of the previous office action dated 15 April 2005. Claims 1 – 3, 36 – 38 and 71 - 73 will be examined on the merits.

***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the text legends are non-conformant and difficult to read. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1 – 3, 36 – 38 and 71 - 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loh (U.S. Patent 5,621, 805).**

Regarding **Claims 1, 36 and 71**, Loh discloses a digital mixer (Fig. 7 and col. 5 lines 64 – 67), which comprises means for receiving input signals on a

plurality of input channels (col. 5 lines 64 – 67), a digital volume control applied to all of the input data sources (Fig. 7 elements 712), and a digital adder that adds the digital signals and outputs a single file (Fig. 7 element 720). Loh does not explicitly disclose that the digital volume control blocks determine a scale factor for each of said digital audio files. However, in Loh's disclosure of a prior art analog audio mixer (fig. 2), the art teaches where the amplitude of each analog input signal is selectively adjusted depending on a volume control selection. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply this teaching to the digital volume control disclosed in Fig. 7. One would have been motivated to do so for a variety of reasons, see Loh col. 4 lines 20 – 33.

Regarding **Claims 2, 37 and 72**, in addition to the elements stated above regarding claims 1, 36, and 71, Loh further discloses the digital mixing is performed in computer system (abstract). Loh does not disclose the computer system as a server device operatively coupled over a network device to a client. However, Examiner takes official notice that it would have been obvious at the time of the invention to use Loh's computer as a server coupled to other client devices over a network. It is notoriously well known to connect a computer to a network and use it as a server. One would be motivated to do so to host a variety of media for remote users such as web pages, audio or video.

Regarding **Claims 3, 38 and 73**, in addition to the elements stated above regarding claims 2, 37 and 72, Loh discloses the digital mixer may receive audio

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signals from a compact disc, a digital audio tape, sound management software or digital signals from other sources (col. 4 lines 50 – 55).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SINH TRAN  
SUPERVISORY PATENT EXAMINER

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